

COUNTY OF LINCOLN

New Mexico Special Meeting Board of County Commissioners

Preston Stone, Chair
Dallas Draper, Vice Chair

Thomas F. Stewart, Member
Elaine Allen, Member
Lynn Willard, Member

Minutes Friday April 15, 2016

Minutes of the Special Meeting of the Lincoln County Commission held at 1:30 PM on April 15, 2016 in at the Ruidoso Substation, 109 Kansas City Road, Ruidoso, New Mexico.

1. Call to Order

Chair Stone called the Regular Meeting of the Board of County Commissioners to order at 1:33 PM.

2. Roll Call

Roll Call.

Present: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

Others present included Nita Taylor, County Manager; Alan Morel, County Attorney; and Whitney Whittaker Chief Deputy County Clerk.

3. Invocation

The invocation was presented by Chair Stone.

4. Pledge of Allegiance

- a. Pledge – US Flag
- b. Salute – NM Flag

5. Approval of Agenda

Motion: Acceptance of the Agenda and authorized the Chair to move items as necessary.

Action: Approve, Moved by Commissioner Draper, Seconded by Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

6. Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened and/or Pending Litigation Section 10-15-1, Sub-Paragraph H.(7); and Discussion of the purchase, acquisition or disposal of real property or water rights by the public body, Section 10-15-1, Sub-Paragraph H.(8).

Motion: To close the meeting for the purposes of an Executive Session to discuss Threatened and/or Pending Litigation pursuant to the Open Meetings Act, Section 10-15-1, Sub Paragraph H.(7) and the purchase, acquisition or disposal of real property or water rights by the public body, Section 10-15-1, Sub-Paragraph H.(8) and as follows:

New or Updated Matters since last report *

1. **Cooper, Gale and DeBaca County News v. County of Lincoln, Sheriff of Lincoln County, et al.* D-1329-CV-2007-01364. Suit filed: October 15, 2007. Verified Complaint for Declaratory Judgment Ordering Production of Certain Records and Information. Hearing took place Dec. 18, 2013, and Stipulated Judgment was entered June 4, 2014 in favor of Ms. Cooper. Ms. Cooper filed an appeal June 10, 2014, and Judge John F. Davis was assigned Aug. 3, 2014. Joint Answer Brief of Defendants-Appellees' Steven Sederwall and Rick Virden with Request for Oral Argument filed in the Court of Appeals Sept. 28, 2015. Case was submitted to a panel of three

judges for decision on February 1, 2016. Memorandum Opinion was filed March 23, 2016 affirming the district court's determination that statutory damages are not available and vacating \$100,000 punitive damages and attorney fee awards.

2. *Water Rights Protests: New Mexico State Engineer Hearing Numbers: 14-039 and 14-041.* Protests of Applications 01300-1, 01300-2, 01300-3, 0826-2 into 0275 *et. al.* and H-272 *et al* (T) and H-50-1 into H-272 *et. al.* (T) filed July 15, 2013 pertaining to movement / transfer of water rights from the Hondo Valley to the Village of Ruidoso and the City of Ruidoso Downs. Docketing Order filed Sept. 18, 2014. Kelly Cassels/Sanders, Bruin, Coll & Worley, P.A. has been retained by the County, entered his appearance Sept. 22, 2014 and has responded in behalf of the County.

3. *Wesmax, Ltd. V. Paul Baca, Lincoln County Assessor D-1226-CV-2014-00188* Appeal of the Final Order from Lincoln County Valuation Protest Board. Appeal filed Oct. 8, 2014. Case assigned to Basham & Basham/Dwyer. Record of Appeal and Transcript of Proceedings was filed Oct. 23, 2014.

4. **Edward Rider/Brennon Moorhead v. The Board of County Commissioners, Brack Rains, Matt Christian, Robert Shepperd D 1226 CV 2015-00103* Complaint for Damages and Summons received June 15, 2015. Complaint alleges damages while Sheriff's Deputies were executing a search warrant at 132 Birch Street, Ruidoso. Removed to Federal Court July 7, 2015. Order Granting Defendants' Motion to Dismiss Defendants Lincoln County Board of Commissioners and Defendant Robert Shepperd, as no claims remain against them, filed Oct. 7, 2015. Second Amended Civil Complaint filed Nov. 4, 2015. Settlement Agreement and Release of All Claims signed by Plaintiff March 14, 2016. Order of Dismissal With Prejudice filed April 4, 2016 by Judge Wormuth.

5. A. *Preston, DeAnna v. County of Lincoln, Sheriff Robert Shepperd D-1226-CV-2015-00112* Notice of Appeal of Post Disciplinary Hearing filed June 10, 2015. Amended Complaint alleging Civil Rights Violation and Gender Based Discrimination filed on Oct. 13, 2015. Removed to Federal Court Nov. 12, 2015. Order Granting Defendant's Motion for Protective Order and stay of discovery filed January 29, 2016.

B. *Preston, DeAnna: Notice of Charge of Discrimination* submitted to the U.S. Equal Employment Opportunity Commission July 21, 2015. Mediation was Oct. 29, 2015. Plaintiff requested a Right to Sue from the EEOC on January 29, 2016.

6. **Valle del Sol v. Naron, et. al. D-1226-CV-2015-00166* Complaint to Enforce and Collect Upon Promissory Note and to Foreclose Mortgage upon Real Property filed Sept. 24, 2015. Plaintiff's Motion for Summary Judgment was filed December 2, 2015. Motion Hearing took place January 19, 2016. Proposed Motion for Summary Judgment approved as to form February 5, 2016. Motion Hearing took place February 15, 2016 where Judge Bryant gave the parties until March 15, 2016 to resolve or Summary Judgement will be entered. Summary Judgment Against Defendants Willie E. Naron and Joanne R. Naron entered on March 23, 2016.

7. *Orlando Montes v. Pinnacle Propane, LLC, Allen Sultermeier, County of Lincoln, Lincoln County Fair Association, John Does; D-1226-CV-2016-00006* Complaint for Wrongful Death, Statutory Tort, Violation of Constitutional Rights (Due Process), Negligence Per Se: Loss of Consortium, Negligent Infliction of Emotional Distress filed with the 12th Judicial District Court Jan. 19, 2016. Incident occurred at Lincoln County Fairgrounds July 2, 2015. County was served with Complaint on January 25, 2016. The case was removed to Federal Court Feb. 22, 2016.

8. *Walter Ray Seidel / Brian Ray Seidel v. Anthony Manfredi, Lincoln County Sheriff Department M-32-CV-2016-00036* Civil Complaint filed March 9, 2016 alleging personal and property damage.

Lincoln County Ordinance Violations:
Alan P. Morel: 12th Judicial District Attorney's Office
Special Prosecutor

9. **State of N.M. v. Blaylock, Gregory M-30-MR-2016-00016* alleged violation of Lincoln County Ordinance 2014-04 Contraband in LCDC. The Non-Traffic citation was filed in the Magistrate Court on February 10, 2016. A misdemeanor arraignment was held on February 12, 2016 at which time the Defendant pled "Not Guilty." The Defendant is represented by the Public Defender's Office. A Pre-Trial Hearing was scheduled for Tuesday, March 29, 2016 at 9:00 a.m. on a Trailing Docket before Judge Mickie L. Vega, but due to Defendant's automobile accident March 28, a reset was scheduled for April 12, 2016 at 9 a.m. at which Defendant failed to appear. A bench warrant has been issued by the court for failure to appear in the sum of \$400 – cash only (\$300 fine and \$100 bench warrant fee).

10. **State of N.M. v. Parks, Nicole M-30-MR-2016-00010* alleged violation of Lincoln County Ordinance 2008-08 Dogs Running At Large. The Non-Traffic citation was filed in the Magistrate Court on January 15, 2016. A misdemeanor arraignment was held on January 17, 2016 at which time the Defendant pled "No Contest." A Sentencing Hearing took place Tuesday, March 22, 2016 at 9:00 a.m. on a Trailing Docket before Judge Mickie L. Vega. Defendant advised the court she has gotten rid of the dog. Mr. Morel agreed to a 90 day deferred sentence,

unsupervised probation, no fine and court costs of \$73. Agreement to Pay Fine and Fees filed March 22, 2016.

11. **State of New Mexico v. Sanders, Robert J. M-30-MR-2015-00253* alleged violation of Lincoln County Ordinance 2008-08 Dogs Running at Large. The Non-Traffic citation was filed in Magistrate Court on December 23, 2015. The Defendant pled not guilty. A Pre-Trial Hearing was heard on March 29, 2016 at 9 a.m. on a Trailing Docket before Judge Vega where the Defendant pled No Contest and was found Guilty, sentenced to 90 days unsupervised probation concurrent with M-30-MR-2016-00001, fined \$300 with \$225 suspended and assessed court costs of \$73. Agreement to Pay Fine and Fees filed March 29, 2016.

12. **State of New Mexico v. Sanders, Robert J. M-30-MR-2016-00001* alleged violation of Lincoln County Ordinance 2008-08 Dogs Running at Large. The Non Traffic citation was filed in Magistrate Court on January 5, 2016. The Defendant pled Guilty and was found Guilty and sentenced to 90 days unsupervised probation concurrent with M-30-MR-2015-00253, fined \$300 with \$225 suspended and assessed court costs in the sum of \$73. Agreement to Pay Fine and Fees filed March 29, 2016.

13. **State of New Mexico v. Fragoso, Francisco M-32-MR-2016-00089* alleged violation of Lincoln County Ordinance 2008-08 Dogs Running at Large. The Non-Traffic citation was filed in Magistrate Court March 17, 2016. A First Appearance Hearing was scheduled for April 4, 2016. The Defendant pled No Contest and was found Guilty and received a deferred sentence subject to 90 days unsupervised probation, a \$25 donation to Crime Stoppers and court costs in the sum of \$73.

14. **State of New Mexico v. Sandoval, Andrew D.* (case number unknown as of April 12, 2016) alleged violation of Lincoln County Ordinance 2008-08 Dogs Running at Large.. Deputy Kevin Kennedy of the Lincoln County Sheriff's Department prepared a Criminal Complaint which was delivered to the Carrizozo Magistrate Court for filing and issuance of a Summons to the Defendant.

Tort Claims Notices Received or Threatened

2016

Rains, Bonnie – Tort Claim Notice received January 18, 2016 alleging failure of the County of Lincoln to maintain road surfaces during snow or ice conditions.

Brazel, Stephanie – Tort Claim Notice received January 20, 2016 alleging injuries incurred due to Claimant stepping in an alleged uncovered water meter hole at 2801 Sudderth Drive, Ruidoso, NM.

Seldel, Walter R., Jr. – Tort Claim Notice received January 26, 2016 regarding a motor vehicle accident involving Claimant and a Lincoln County Sheriff's vehicle.

Hill, Walter – Tort Claim Notice received March 8, 2016 via emailed correspondence from Mr. Hill alleging the unlawful disclosure of confidential information from Mr. Hill's Lincoln County personnel file.

***Sonora Corporation (John Russell-CEO)**-Tort Claim Notice received April 6, 2016 via correspondence from Mr. Russell in response to a Notice of Investigation from NM Construction Industries Division due to an alleged lack of final inspection and deviation from approved plans of construction in 2012 at 119 Bald Eagle Court, Alto, NM.

***Jaramillo, Monica** – Tort Claim Notice received April 8, 2016 alleging Lincoln County road department employee in the performance of his road grading duties damaged Ms. Jaramillo's vehicle.

2015

Cherry, Doris – Tort Claim Notice posted in Lincoln County News Jan. 1, 2015 stating possible Civil Rights Violation lawsuits regarding alleged Americans with Disabilities Act non-compliance in remodeling the Lincoln County Courthouse buildings.

McDaniel, Carl – Tort Claim Notice received Jan. 23, 2015 from Attorney John Sugg alleging violation of the Unfair Trade Practices Act and engaging in unfair or deceptive trade practices and/or unconscionable trade practices by GSWA.

UNM Hospital-Prins, Chad – Tort Claim Notice received Feb. 26, 2015 in which UNM Hospital seeks reimbursement of expenses incurred while Lincoln County Detention Center inmate Prins was on furlough.

Sehorn, Sean M. – Tort claim Notice received March 2, 2015 from Attorney Gary Mitchell alleging Lincoln County Detention Center failed to provide adequate medical treatment during inmate Sehorn's incarceration.

Lavin, Erica L. and Rathgeber, Jack – Tort Claim Notice received March 2, 2015 from Attorney Gary Mitchell alleging Constitutional Rights were violated resulting in wrongful termination.

Hanley, Constance – Tort Claim Notice received March 20, 2015 from Attorney John Sugg alleging violations of 42 USC section 1983, malicious prosecution, failure to investigate, defamation of character, libel and abuse of process.

Capitan Iron Mine through A. Blair Dunn – Threatened Litigation on April 1, 2015 against the County of Lincoln should Lincoln County require Capitan Iron Mine comply with

Lincoln County Mine Ordinance 2009-01.

Chavez, Billy – Ordinance Violation: 2009-03 Regulating Refuse, Solid Waste and Litter in the County. March 10, 2015 certified letter mailed to Mr. Chavez giving him 30 days to dispose of debris on his property at 142 White Cat Road, San Patricio (Section 26, Township-10S, Range 16E, tract of land lying in the NE 4SE4). April 10, 2015 the property was inspected and noted no progress had been made.

Culp, Susan v. LCMC/Lincoln County: Tort Claim Notice received May 4, 2015 from Attorney Katherine Channing Roehl/Roehl Law Firm alleging medical malpractice, negligent supervision, negligent credentialing by staff, administrators and doctors at LCMC on or about March 3, 2015 during Ms. Culp's gall bladder removal surgery.

Reyes, Roberto – Tort Claim Notice received May 15, 2015 from Attorney Timothy White/Valdez White Law Firm alleging illegal seizure, illegal search, illegal imprisonment and wrongful conduct of the Lincoln County Sheriff's Department.

Torres, Leopoldo: Tort Claim Notice received June 4, 2015 from inmate Torres alleging inmate-initiated attack on inmate Torres at Lincoln County Detention Center.

Wallace, Stephen: Tort Claim Notice received June 11, 2015 from Attorney Gary Mitchell alleging deprivation of Constitutional rights due to false incarceration at Lincoln County Detention Center without proceeding with a timely extradition.

Rodriguez, Victor – Tort Claim Notice received July 13, 2015 from Attorney W. Chris Nedbalek alleging hostile treatment from fellow employees while employed at Lincoln County Detention Center.

Prudencio, Fabian and Corinne – Tort Claim Notice received July 24, 2015 from Attorney Daniel P. Ulibarri alleging negligence, personal injury, spoliation, indemnification and property damage against the County of Lincoln.

Yates, Barbara – Verbal Threat against the County issued July 21, 2015 due to ongoing flooding at her private property.

Davis, Jack and Rema – Verbal Threat against the County issued July 21, 2015 due to ongoing flooding at their private property.

Capitan Iron Mine – Tort Claim Notice received Sept. 24, 2014 via email from A. Blair Dunn, alleging County trespass on private property.

L. Phillip Onsrud – Tort Claim Notice received Nov. 3, 2015 via email alleging lack of medical care while incarcerated in Lincoln County Detention Center.

Brown, Shelly – Tort Claim Notice received December 31, 2015 alleged failure of the County of Lincoln to maintain road surfaces during snow or ice conditions.

2014

Millerden, Kenneth and Anita – Tort Claim Notice received May 9, 2014 from Attorney Victor F. Poulos alleging negligence from staff at Lincoln County Medical Center during prepartum care for their infant son.

Ogden, John D – Tort Claim Notice received May 26, 2014 alleging mistreatment while incarcerated at Lincoln County Detention Center on March 11, 2014.

Rounds, Christopher – Tort Claim Notice received June 4, 2014 alleging being held in Lincoln County Detention Center without being advised of his charges.

Herbert, Crystal – Tort Claim Notice received June 23, 2014 from Attorney Matthew Coyte/Coyte Law alleging false imprisonment, due process violations, unlawful detention of a minor, emotional distress.

Class Action – Tort Claim Notice received June 23, 2014 from Attorney Ryan Villa/Cooper Law Firm alleging false imprisonment, false arrest, deprivation of rights at Lincoln County Detention Center that arise with Immigration and Customs Enforcement charges.

Atwell, Stacey – Tort Claim Notice received June 25, 2014 alleging unlawful seizure of her two minor children during a request for a deputy to assist in keeping the peace.

McGarry, Sean – Tort Claim Notice received July 25, 2014 from Attorney S. Doug Jones Witt alleging wrongful arrest, false imprisonment, malicious prosecution, intentional or negligent infliction of emotional distress, abuse of process, wrongful termination and retaliatory discharge regarding discharge from the Capitan Police Department.

Ramos, Aaron – Tort Claim Notice received August 7, 2014 alleging lack of Due Process for inmates at Lincoln County Detention Center.

Lambert, David and Bonnie – Tort Claim Notice received Sept. 8, 2014 from Attorney W. Chris Nedbalek alleging damage to Lambert property due to Mr. Rodney Bunsen using his own equipment to alter a platted County right of way without the authorization or knowledge of the County.

Caughron, Brittany and Anderson, Amie – Tort Claim Notice received Oct. 24, 2014 by Attorney W. Chris Nedbalek alleging overcrowding of Lincoln County Detention Center as a violation of 8th Amendment Rights.

Ryen, Allen – Tort Claim Notice received Oct. 27, 2014 by Attorney W. Chris Nedbalek alleging Mr. Ryen was exposed to unsanitary conditions at Lincoln County Detention Center.

Inmate Group – Tort Claim Notice received Oct. 27, 2014 by Attorney W. Chris Nedbalek alleging overcrowding and unsanitary conditions at Lincoln County Detention Center.

Caughron, Brittany and Anderson, Amie – Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris Nedbalek alleging inadequate medical care and overcrowding at Lincoln County Detention Center.

Inmate Group – Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris Nedbalek alleging overcrowding and unsanitary conditions at Lincoln County Detention Center.

Long, Cameron – Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris Nedbalek alleging mistreatment by an Officer with Adult Probation and Parole.

McClarnon, Brian – Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris Nedbalek alleging violations of U.S. Constitutional Amendment rights.

Diana Martwick, 12th Judicial District Attorney – Tort Claim Notice received Nov. 25, 2014 alleging lack of adequate office space provided by the County of Lincoln.

Inmate Group – Tort Claim Notice received Dec. 22, 2014 by attorney W. Chris Nedbalek alleging inmates were mistreated at Lincoln County Detention Center.

2013

Harrisburg Documents- Attempts to recover Lincoln County documents illegally taken from the County. County Clerk Rhonda Burrows has been in contact with Harrisburg, PA in recovery efforts.

Action: Approve, Moved by Commissioner Stewart, Seconded by Commissioner Draper.

Vote: Motion carried by unanimous roll call vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

Chair Stone recessed the Special Meeting and convened the Closed Session at 1:34 PM.

Chair Stone adjourned the Closed Session and reconvened the Regular Meeting at 3:17 PM.

Commissioner Draper attested that matters discussed in the closed meeting were limited to those specified in the motion for closure or in the notice of separate closed meeting.

7. Consideration / Action Resolution 2015-32: Resolution to Purchase Property.

Motion: Adopt Resolution 2015-32, **Action:** Approve, Moved by Commissioner Stewart, Seconded by Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

SEE EXHIBIT B: Copy of Resolution 2015-32 is attached hereto in reference thereto made a part hereof.

8. Next Meeting:

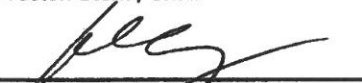
- a. April 19, 2016 - Regular Commission Meeting
- b. May 2, 2016 - Preliminary Budget Commission Meeting

29. Adjournment.

There being no further business to come before the Board of County Commissioners, Chair Stone adjourned the meeting at 3:18 PM


County of Lincoln
Board of County Commissioners


Preston Stone, Chair


Dallas Draper, Vice Chair


Elaine Allen, Member


Thomas F Stewart, Member


F Lynn Willard, Member

ATTEST.


Rhonda Burrows, County Clerk

May 17, 2016
Date Approved

